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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Patent application of:

Applicant(s): Thomas M. Walraven
Serial No: 10/757,175
Filing Date: January 14, 2004
Title: TOY PERCUSSION INSTRUMENT WITH TETHERED STRIKER
Examiner: Faye Francis
Art Unit: 3712
Docket No. LTTKP0116US

APPELLANT'S APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

On behalf of the appellant, the undersigned submits this brief for the Board's consideration of the appeal of the Examiner's decision dated November 4, 2005, finally rejecting claims 1, 3, 4, 11, 16-18 and 20-22 of the above-identified application. A credit card payment form covering the fee for filing an appeal brief is attached.

I. Real Party in Interest

The real party in interest in the present appeal is The Little Tikes Company.

II. Related Appeals and Interferences

Neither appellant, appellant's legal representative, nor the assignee of the present application are aware of any appeals or interferences which will directly affect,

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which will be directly affected by, or which will have a bearing on the Board's decision in the pending appeal.

III. Status of Claims

Claims 1 and 3-25 are pending. Claims 5-10, 12-15, 19 and 23-25 have been allowed. Claims 1, 3, 4, 11, 16-18 and 20-22 stand finally rejected, and are the subject of this appeal. The claims on appeal are reproduced in the hereto appended Claims Appendix.

IV. Status of Amendments

Proposed amendments were filed on March 10, 2005. In an Advisory Action dated March 31, 2005, the proposed amendments were denied entry.

V. Summary of Claimed Subject Matter

The claimed subject matter relates generally to toy percussion instruments designed for young children and, more particularly, to such instruments with one or more tethered strikers used to play the instrument. The invention also has more general applicability to toys comprising a main unit and one or more implements that are tethered to the main unit. [1/4-8][1]

Background

In the past, toy manufacturers have used a tethered striker for musical percussion instruments, as is desired particularly by parents to prevent the strikers from

[1] Page number/line number(s) of the specification.

becoming separated from the instrument and/or lost. For example, the Little RhythmMaker™ Drum sold by The Little Tikes Company is a child-sized drum that comes with two tethered drumsticks. One end of each tether is attached to a respective opposite side of the drum and the other end is attached to an end of the respective drumstick. The Little RhythmMaker™ Drum is intended for children of two years of age and up. [1/12-19]

Instruments intended for younger children typically have only a single tethered striker. Toy safety standards make it difficult to incorporate more than one tethered striker. If the tethers can tangle or form a loop, or both, in connection with any part of the toy, the perimeter of the loop should be less than 14 inches for children younger than 18 months. Thus, if a second tethered striker is employed, the tethers had to be of length that made it difficult for a young child to use the strikers, thereby reducing the play value of the toy instrument. On the other hand, the provision of only single striker oftentimes made the toy less realistic, as in the case of a drum which is normally played with two drumsticks. [½1-30]

The Invention as Defined in the Rejected Claims

A toy percussion instrument 10 comprises an instrument body 12, one or more strikers 14 for striking the instrument body to produce a sound, and a tether (16) connecting each striker to the instrument body. [3/31-34] Each tether has one end connected to the instrument body at a respective body attachment location 32, and an opposite end connected to the respective striker at a striker attachment location 34. [4/23-27] The striker attachment location 34 is spaced inwardly from the ends (40, 44) of the striker, thereby allowing a shorter tether to be used while still allowing the

instrument to be played without difficulty. [5/1-4] More particularly, the striker attachment location may be spaced inwardly from the ends of the striker by at least one fifth the length of the striker, or more preferably by at least one fourth the length of the striker. [5/4-7]

The striker may have a rounded striker end portion and an opposite handle end portion. [4/33-35]

The instrument body may have a drumming surface 22 to be struck by the striker(s) to produce a sound. [4/8-10] The tether may have one end connected to the instrument body at a body attachment location adjacent the drumming surface, and the striker attachment location being spaced inwardly from the striker end (42) of the striker by a distance about equal the distance between the body attachment location (32) and a center (50) of the drumming surface. [5/7-13]

The body attachment locations (32) preferably are located on the same side of the instrument body at the same or about the same location. [5/32-34]

The instrument body may have the shape of an animal, a drum or a xylophone. [4/4-5] The animal shape may be that of a turtle and the drumming surface may form at least a part of the turtle's shell. [4/5-8]

Principles of the invention may also have more general applicability to toys that comprise a main unit and one or more tethered implements. In this regard, the instrument body (12) is but one example of a main unit, and the striker (14) is but one example of an implement that can be used by the child when playing with the main unit. Thus, the tether (16) connects each implement to the main unit, thereby to prevent the implement or implements from becoming separated from the main unit. The tether has one end connected to the main unit at a respective main unit attachment location, and

an opposite end connected to the implement at an implement attachment location. The implement attachment location is spaced inwardly from the ends of the implement, thereby to allow a shorter tether to be used while still allowing the implement to be used without difficulty. As is preferred, the implement attachment location is spaced inwardly from a non-handle end of the implement by a distance about equal the distance between the main unit attachment location and a center of a play area of the main unit. [6/4-18]

VI. Grounds of Objection/Rejection to Be Reviewed on Appeal

A. The drawings are objected to under 37 C.F.R. 1.83(a) for want of showing every feature of the invention specified in the claims.

B. Claims 1, 3, 4, 11, 18, 21 and 22 stand finally rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,443,803 (***Epple***).

B. Claims 1, 3, 4, 11, 18, 21 and 22 stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over ***Epple*** in view of U.S. Patent No. 6,328,626 (***Eubanks***).

C. Claims 16, 17 and 20 stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over ***Epple*** in view of ***Eubanks*** and U.S. Patent No. 546,021 (***Luckenbach***).

VII. Argument

The above set forth grounds of objection/rejection should be reversed at least for the below set forth reasons.

A. Drawing Objection under 37 C.F.R. 1.83(a)

The Examiner has objected to the drawings for failing to show a xylophone as set forth in claim 20.[2] The objection should be reversed.

The drawing already depicts an instrument body, albeit in the form of an animal having a drumhead (or conversely, an drum having the body thereof in the form of a animal). A xylophone, like a drum, is a well known percussion instrument. Given the conventional nature of a xylophone, it is respectfully submitted that a detailed illustration thereof is not needed for a proper understanding of the invention as set forth in claim 20 (see 37 CFR 1.83).

B. Rejection of Claims 1, 3, 4, 11, 18, 21 and 22 under 35 U.S.C. 102(b)

Claims 1, 3, 4, 11, 18, 21 and 22 stand finally rejected as being anticipated by ***Epple***. For the reasons discussed below, this rejection should be reversed.

Claims 1, 3 and 4

Claims 1, 3 and 4 recite a toy percussion instrument comprising an instrument body; a striker for striking the instrument body to produce a sound; and a tether connecting the striker to the instrument body; wherein the tether has one end connected to the instrument body at a body attachment location, and an opposite end connected to the striker at a striker attachment location, the striker attachment location being spaced inwardly from the ends of the striker; and wherein the striker attachment

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[2] An attempt was made to resolve the drawing objection by way of a proposed amendment deleting from claim 20 the recitation of a xylophone, but entry of the amendment was refused in the Advisory Action dated March 10, 2005.

location is spaced inwardly from the ends of the striker by at least one fifth the length of the striker.

Epple discloses a tunable turkey game call. The device is not intended for use as a toy and much less a toy percussion instrument. Accordingly, claim 1 is not anticipated for this reason.

According to claims 1, 3 and 4, a striker is connected to the instrument body by a tether. In this regard, the Examiner points out that ***Epple*** discloses the use of a tether at column 4, lines 20 and 21. These lines are contained in the following excerpt:

> The striker weight assembly comprises a cylindrical block through which a hole is bored on the central axis. The hole is fitted with flexible ring elements to frictionally secure the striker weight assembly to the striker rod element. The striker weight can then be moved up or down on the striker peg to obtain varying sounds. The striker weight element may have a groove on its circumference for attaching a string tether.

Epple, column 4, lines 14-21. While ***Epple*** discloses a groove for a string tether, no mention is made as to the use of the tether. Given that the tether is more particularly described in relation to the striker element assembly 34 at column 6, lines 37-44, any inference to be drawn is that the tether is employed to hold the striker weight element 27 to the striker rod element 26 rather than the striker rod element 26 to the sound box housing 33. There is no disclosure that a tether be attached to the sound box housing assembly 33 and no provision whatsoever is made for any such attachment. Accordingly, claim 1 is not anticipated for this additional reason.

Claims 11 and 18

The above remarks respecting claims 1, 3 and 4 are equally applicable to claims 11 and 18.

Claims 11 and 18 also state that the instrument body has a drumming surface, the tether has one end connected to the instrument body at a body attachment location adjacent the drumming surface, and the striker attachment location is spaced inwardly from a striker end of the striker by a distance about equal the distance between the body attachment location and a center of the drumming surface. Clearly, these features of claim 11 are not disclosed by ***Epple*** since ***Epple*** does not disclose any tether connecting a striker to an instrument body and much less an instrument body having a drumming surface.

It is also noted that the rigid friction element 17 is not intended to be used as a drumming surface. Instead, the striker rod element is moved across the friction element to create a turkey call sound.

Claim 21

Claim 21 recites a toy comprising a main unit; an implement for use with the main unit; and a tether connecting the implement to the main unit, the tether having one end connected to the main unit at a respective main unit attachment location, and an opposite end connected to the implement at an implement attachment location, and the implement attachment location being spaced inwardly from the ends of the implement by at least one fifth the length of the implement, thereby to allow a shorter tether to be used while still allowing the implement to be used without difficulty.

Epple discloses a tunable turkey game call. The device is not intended for use as a toy. Accordingly, claim 1 is not anticipated for this reason.

According to claim 21, an implement is connected to the main unit by a tether. In this regard, the Examiner points out that ***Epple*** discloses the use of a tether at column 4, lines 20 and 21. These lines are contained in the following excerpt:

> The striker weight assembly comprises a cylindrical block through which a hole is bored on the central axis. The hole is fitted with flexible ring elements to frictionally secure the striker weight assembly to the striker rod element. The striker weight can then be moved up or down on the striker peg to obtain varying sounds. The striker weight element may have a groove on its circumference for attaching a string tether.

Epple, column 4, lines 14-21. While ***Epple*** discloses a groove for a string tether, no mention is made as to the use of the tether. Given that the tether is more particularly described in relation to the striker element assembly 34 at column 6, lines 37-44, any inference to be drawn is that the tether is employed to hold the striker weight element 27 to the striker rod element 26 rather than the striker rod element 26 to the sound box housing 33. There is no disclosure that a tether be attached to the sound box housing assembly 33 and no provision whatsoever is made for any such attachment. Accordingly, claim 21 is not anticipated for this additional reason.

Claim 22

Claim 22 recites a toy comprising a main unit having a play area with a center; an implement manipulable by a child in relation to the play area of the main unit; and a tether connecting the implement to the main unit; wherein the tether has one end connected to the implement at a main unit attachment location, and an opposite end connected to the implement at an implement attachment location, the implement

attachment location being spaced inwardly from a non-handle end of the implement by a distance about equal the distance between the main unit attachment location and the center of the play area.

Epple discloses a tunable turkey game call. The device is not intended for use as a toy. Accordingly, claim 1 is not anticipated for this reason.

According to claim 22, an implement manipulable by a child is connected to the main unit by a tether. In this regard, the Examiner points out that ***Epple*** discloses the use of a tether at column 4, lines 20 and 21. These lines are contained in the following excerpt:

> The striker weight assembly comprises a cylindrical block through which a hole is bored on the central axis. The hole is fitted with flexible ring elements to frictionally secure the striker weight assembly to the striker rod element. The striker weight can then be moved up or down on the striker peg to obtain varying sounds. The striker weight element may have a groove on its circumference for attaching a string tether.

Epple, column 4, lines 14-21. While ***Epple*** discloses a groove for a string tether, no mention is made as to the use of the tether. Given that the tether is more particularly described in relation to the striker element assembly 34 at column 6, lines 37-44, any inference to be drawn is that the tether is employed to hold the striker weight element 27 to the striker rod element 26 rather than the striker rod element 26 to the sound box housing 33. There is no disclosure that a tether be attached to the sound box housing assembly 33 and no provision whatsoever is made for any such attachment. Accordingly, claim 22 is not anticipated for this additional reason.

It further follows that there is no disclosure of the implement attachment location being spaced inwardly from a non-handle end of the implement by a distance about

equal the distance between the main unit attachment location and the center of the recited play area. Again, ***Epple*** makes no provision for connection of a tether to the sound box housing 33. For this further reason claim 22 is not anticipated by ***Epple***.

C. Rejection of Claims 1, 3, 4, 11, 18, 21 and 22 under 35 U.S.C. 103(a)

Claims 1, 3, 4, 11, 18, 21 and 22 stand finally rejected as being unpatentable over ***Epple*** in view of ***Eubanks***. For the reasons discussed below, this rejection should be reversed.

Claims 1, 3 and 4

The above remarks respecting the novelty of claims 1, 3 and 4 are here repeated by reference. As will become apparent from the following discussion, the above-noted novel features would not have been obvious to one of ordinary skill in the art given the disclosure of ***Eubanks***. It is respectfully submitted the Examiner has not established a *prima facie* case of obviousness and therefore the rejection of claims 1,3 and 4 should be reversed.

Like ***Epple***, ***Eubanks*** discloses a type of game call apparatus. Consequently, any fair combination of ***Epple*** and ***Eubanks*** would not disclose or suggest a toy and much less a toy percussion instrument.

As above discussed, ***Epple*** discloses a groove for a string tether but no mention is made as to the use of the tether. Given that the tether is more particularly described in relation to the striker element assembly 34 at column 6, lines 37-44, any inference to be drawn is that the tether is employed to hold the striker weight element 27 to the striker rod element 26 rather than the striker rod element 26 to the sound box housing

33. There is no disclosure that a tether be attached to the sound box housing assembly 33 and no provision whatsoever is made for any such attachment. Accordingly, claim 1 is not anticipated for this additional reason.

Recognizing this deficiency of ***Epple*** as a teaching reference vis-a-vis the subject matter of the claims being rejected, the Examiner contends it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a tether to attach the striker of ***Epple*** to the sound box housing assembly 33 by a tether in view of ***Eubanks***.

It is respectfully submitted that even if there were motivation to combine the teachings of ***Eubanks*** with those of ***Epple***, the result would not give rise to the claimed subject matter. ***Eubanks*** teaches attachment of a tether to a striker at a location near the end of the striker. The combination advanced by the Examiner does not suggest the subject matter of claims 1, 3 and 4.

Moreover, neither ***Epple*** nor ***Eubanks*** is at all concerned with the problem addressed by applicant, i.e. compliance with toy safety standards without reducing the play value of a toy and specifically a toy percussion instrument.

Claims 11 and 18

The above remarks respecting the 35 U.S.C. 103(a) rejection of claims 1, 3 and 4 are equally applicable to the 35 U.S.C. 103(a) rejection of claims 11 and 18.

Claims 11 and 18 also state that the instrument body has a drumming surface, the tether has one end connected to the instrument body at a body attachment location adjacent the drumming surface, and the striker attachment location is spaced inwardly from a striker end of the striker by a distance about equal the distance between the

body attachment location and a center of the drumming surface. Clearly, these features of claim 11 are not disclosed by ***Epple*** since ***Epple*** does not disclose any tether connecting a striker to an instrument body and much less an instrument body having a drumming surface. Likewise, ***Eubanks*** does not disclose these features. According to ***Eubanks***, the striking member 12 is slid along the scalloped surface of the body member 14. Consequently, no combination of ***Epple*** and ***Eubanks*** would yield a drumming surface and much less the further specifics regarding the attachment locations.

Claim 21

The above remarks respecting the novelty of claim 21 are here repeated by reference. As will become apparent from the following discussion, the noted novel features would not have been obvious to one of ordinary skill in the art given the disclosure of ***Eubanks***. It is respectfully submitted the Examiner has not established a *prima facie* case of obviousness and therefore the rejection of claim 21 should be reversed.

Like ***Epple***, ***Eubanks*** discloses a type of game call apparatus. Consequently, any fair combination of ***Epple*** and ***Eubanks*** would not disclose or suggest a toy.

As above discussed, ***Epple*** discloses a groove for a string tether but no mention is made as to the use of the tether. Given that the tether is more particularly described in relation to the striker element assembly 34 at column 6, lines 37-44, any inference to be drawn is that the tether is employed to hold the striker weight element 27 to the striker rod element 26 rather than the striker rod element 26 to the sound box housing 33. There is no disclosure that a tether be attached to the sound box housing assembly

33 and no provision whatsoever is made for any such attachment. Accordingly, claim 1 is not anticipated for this additional reason.

Recognizing this deficiency of ***Epple*** as a teaching reference vis-a-vis the subject matter of the claims being rejected, the Examiner contends it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a tether to attach the striker of ***Epple*** to the sound box housing assembly 33 by a tether in view of ***Eubanks***.

It is respectfully submitted that even if there were motivation to combine the teachings of ***Eubanks*** with those of ***Epple***, the result would not give rise to the claimed subject matter. ***Eubanks*** teaches attachment of a tether to a striker at a location near the end of the striker. The combination advanced by the Examiner does not suggest the subject matter of claim 21.

Moreover, neither ***Epple*** nor ***Eubanks*** is at all concerned with the problem addressed by applicant, i.e. compliance with toy safety standards without reducing the play value of a toy and specifically a toy percussion instrument.

Claim 22

The above remarks respecting the novelty of claim 22 are here repeated by reference. As will become apparent from the following discussion, the noted novel features would not have been obvious to one of ordinary skill in the art given the disclosure of ***Eubanks***. It is respectfully submitted the Examiner has not established a *prima facie* case of obviousness and therefore the rejection of claim 22 should be reversed.

Like ***Epple***, ***Eubanks*** discloses a type of game call apparatus. Consequently, any fair combination of ***Epple*** and ***Eubanks*** would not disclose or suggest a toy.

As above discussed, ***Epple*** discloses a groove for a string tether but no mention is made as to the use of the tether. Given that the tether is more particularly described in relation to the striker element assembly 34 at column 6, lines 37-44, any inference to be drawn is that the tether is employed to hold the striker weight element 27 to the striker rod element 26 rather than the striker rod element 26 to the sound box housing 33. There is no disclosure that a tether be attached to the sound box housing assembly 33 and no provision whatsoever is made for any such attachment. Accordingly, claim 1 is not anticipated for this additional reason.

Recognizing this deficiency of ***Epple*** as a teaching reference vis-a-vis the subject matter of the claims being rejected, the Examiner contends it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a tether to attach the striker of ***Epple*** to the sound box housing assembly 33 by a tether in view of ***Eubanks***.

It is respectfully submitted that even if there were motivation to combine the teachings of ***Eubanks*** with those of ***Epple***, the result would not give rise to the claimed subject matter. ***Eubanks*** teaches attachment of a tether to a striker at a location near the end of the striker. It further follows that there is no disclosure of the implement attachment location being spaced inwardly from a non-handle end of the implement by a distance about equal the distance between the main unit attachment location and the center of the recited play area. Again, ***Epple*** makes no provision for connection of a tether to the sound box housing 33. For this further reason claim 22 is not anticipated by ***Epple***.

The combination advanced by the Examiner does not suggest the subject matter of claim 22. Moreover, neither ***Epple*** nor ***Eubanks*** is at all concerned with the problem addressed by applicant, i.e. compliance with toy safety standards without reducing the play value of a toy and specifically a toy percussion instrument.

C. Rejection of 16, 17 and 20 under 35 U.S.C. 103(a)

Claims 16, 17 and 20 stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over ***Epple*** in view of ***Eubanks*** and ***Luckenbach***. ***Epple*** and ***Eubanks*** are applied as they were with respect to claims 1, 3-4, 11, 18, 21 and 22. In this regard, the above discussions relating to claim 11, from which clams 16, 17 and 20 depend, are here repeated by reference. In addition, the following additional remarks are provided in respect of the features of claims 16, 17 and 20.

Claims 16 and 20

Claims 16 and 20 depend from claim 11 and additionally commonly recite an instrument body in the shape of an animal. According to the Examiner, ***Luckenbach*** is cited to show a desirability of providing a sounding toy in the shape of an animal. Thus, the Examiner opines that it would have been obvious to further modify the device of ***Epple*** to simulate an animal as taught by ***Luckenbach*** in order to make the toy more fun to play with.

A fundamental flaw in this analysis is the ***Epple*** (nor ***Eubanks***) disclose a "toy". Instead, they disclose two different types of game call apparatus. There simply is lacking any motivation to modify the device of ***Epple*** to simulate an animal. Moreover, there is lacking any evidence that one skilled in the art to which ***Epple*** relates would

have been motivated to modify such device to make it more fun to play with, given that the device of ***Epple*** is intended as a hunter's aid.

Claim 17

Claim 17 depends from claim 16 and thus the above comments respecting claim 16 are equally applicable to claim 17. In addition, claim 17 specifies the animal shape being that of a turtle and the drumming surface forming at least part of the turtle's shell. It seems highly unlikely that the skilled person would be motivated to modify the device of ***Epple*** such that is resembles a turtle, given the fact that ***Epple***'s device is a turkey call. For this additional reason the rejection of claim 17 should be reversed.

VIII. Conclusion

For at least the foregoing reasons the objection and rejections should be reversed.

In the event any fee or additional fee is due in connection with the filing of this paper, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 (under the above Docket Number). In the event an extension of time is needed to make the filing of this paper timely and no separate petition is attached, please consider this a petition for the requisite extension and charge the fee to our Deposit Account No. 18-0988 (under the above Docket Number).

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

By _____
Don W. Bulson, Reg. No. 28,192

1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113

CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any paper or thing referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: June 13, 2005

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Don W. Bulson

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Appendix

1. (previously presented) A toy percussion instrument, comprising:

an instrument body;

a striker for striking the instrument body to produce a sound; and

a tether connecting the striker to the instrument body;

wherein the tether has one end connected to the instrument body at a body attachment location, and an opposite end connected to the striker at a striker attachment location, the striker attachment location being spaced inwardly from the ends of the striker; and

wherein the striker attachment location is spaced inwardly from the ends of the striker by at least one fifth the length of the striker.

3. (original) A toy percussion instrument as set forth in claim 1, wherein the striker attachment location is spaced inwardly from the ends of the striker by at least one fourth the length of the striker.

4. (original) A toy percussion instrument as set forth in claim 3, wherein the striker has a rounded striker end portion and an opposite handle end portion.

11. (original) A toy percussion instrument, comprising:

an instrument body having a drumming surface;

a striker for striking the instrument body to produce a sound; and

a tether connecting the striker to the instrument body;

wherein the tether has one end connected to the instrument body at a body attachment location adjacent the drumming surface, and an opposite end connected to the striker at a striker attachment location, the striker attachment location being spaced inwardly from the striker end of the striker by a distance about equal the distance between the body attachment location and a center of the drumming surface.

14. (original) A toy percussion instrument as set forth in claim 12, wherein the body attachment locations are located on the same side of the instrument body.

15. (previously presented) A toy percussion instrument, comprising:

an instrument body having a drumming surface;

a striker for striking the instrument body to produce a sound; and

a tether connecting the striker to the instrument body;

wherein the tether has one end connected to the instrument body at a body attachment location adjacent the drumming surface, and an opposite end connected to the striker at a striker attachment location, the striker attachment location being spaced inwardly from the striker end of the striker by a distance about equal the distance between the body attachment location and a center of the drumming surface;

wherein two said strikers and tethers are provided, and the body attachment locations are located at the same or about the same location.

16. (original) A toy percussion instrument as set forth in claim 11, wherein the instrument body has the shape of an animal.

17. (original) A toy percussion instrument as set forth in claim 16, wherein the animal shape is that of a turtle and the drumming surface forms at least a part of the turtle's shell.

18. (original) A toy percussion instrument as set forth in claim 11, wherein the striker has a rounded striker end portion and an opposite handle end portion.

20. (original) A toy percussion instrument as set forth in claim 11, wherein the instrument body is in the form of at least one of an animal, a drum and a xylophone.

21. (previously presented) A toy, comprising:

a main unit;

an implement for use with the main unit; and

a tether connecting the implement to the main unit, the tether having one end connected to the main unit at a respective main unit attachment location, and an opposite end connected to the implement at an implement attachment location, and the implement attachment location being spaced inwardly from the ends of the implement by at least one fifth the length of the implement, thereby to allow a shorter tether to be used while still allowing the implement to be used without difficulty.

22. (original) A toy, comprising:

a main unit having a play area with a center;

an implement manipulable by a child in relation to the play area of the main unit; and

a tether connecting the implement to the main unit;

wherein the tether has one end connected to the implement at a main unit attachment location, and an opposite end connected to the implement at an implement attachment location, the implement attachment location being spaced inwardly from a non-handle end of the implement by a distance about equal the distance between the main unit attachment location and the center of the play area.

23. (previously presented) A toy percussion instrument, comprising:

an instrument body;

a striker for striking the instrument body to produce a sound; and

a tether connecting the striker to the instrument body;

wherein the tether has one end connected to the instrument body at a body attachment location, and an opposite end connected to the striker at a striker attachment location, the striker attachment location being spaced inwardly from the ends of the striker; and

wherein two said strikers and tethers are provided, and the respective body attachment locations are located on the same side of the instrument body.

24. (previously presented) A toy percussion instrument, comprising:

an instrument body having a drumming surface;

a striker for striking the instrument body to produce a sound; and

a tether connecting the striker to the instrument body;

wherein the tether has one end connected to the instrument body at a body attachment location adjacent the drumming surface, and an opposite end connected to the striker at a striker attachment location, the striker attachment location being spaced inwardly from the striker end of the striker by a distance about equal the distance between the body attachment location and a center of the drumming surface; and

wherein two said strikers and tethers are provided, and the body attachment locations are located at the same or about the same location.

25. (previously presented) A toy comprising:

a main unit having a play area with a center;

an implement manipulable by a child in relation to the play area of the main unit; and

a tether connecting the implement to the main unit;

wherein the tether has one end connected to the main unit at a main unit attachment location, and an opposite end connected to the implement at an implement attachment location, the implement attachment location being spaced inwardly from the ends of the implement; and

wherein two said implements and tethers are provided, and the respective main unit attachment locations are located on the same side of the main unit.